

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**MONTEZ LAMAR FULLER,**

**Defendant.**

**No. 06-cr-30117-DRH**

**MEMORANDUM AND ORDER**

**HERNDON, Chief Judge:**

This matter comes before the Court for purposes of case management. Pending before the Court is defendant Montez Lamar Fuller's motion to return property pursuant to FED. R. CRIM. P. 41(g) (Doc. 467). When such a motion is filed by a defendant who has been convicted, the action should proceed as a civil matter. *See United States v. Norwood*, 602 F.3d 830, 832 (7th Cir. 2010); *United States v. Howell*, 354 F.3d 693, 695 (7th Cir. 2004). Further, an action for the return of property filed by a prisoner is subject to the Prison Litigation Reform Act. *United States v. Shaaban*, 602 F.3d 877, 878-79 (7th Cir. 2010); *United States v. Fuller*, 421 F. App'x 642, 646 (7th Cir. 2011).

Accordingly, defendant's instant motion is construed as a new civil action and defendant's complaint. Thus, the clerk is directed to transfer defendant's motion (Doc. 467), the Court's Order directing the government to respond to

defendant's motion (Doc. 468), and the government's sealed response (Doc. 471), which is to remain sealed by Order of the Court, to *Fuller v. United States*, 12-cv-1158-DRH. Thus, defendant is Ordered to either pay the requisite \$350.00 filing fee applicable to civil actions or file a motion to proceed *in forma pauperis* by **December 13, 2012**. Failure to do so shall result in dismissal of this action without further notice.

**IT IS SO ORDERED.**

Signed this 6th day of November, 2012.

*David R. Herndon*



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David R. Herndon  
Date: 2012.11.06  
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**Chief Judge  
United States District Court**